

1 Krista M. Enns (SBN: 206430)  
kenns@winston.com  
2 Scotia J. Hicks (SBN: 252647)  
shicks@winston.com  
3 WINSTON & STRAWN LLP  
101 California Street  
4 San Francisco, CA 94111-5840  
Telephone: (415) 591-1000  
5 Facsimile: (415) 591-1400

6 Attorneys for Non-Party  
CISCO SYSTEMS, INC.  
7

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10

11 In re: NON-PARTY DEPOSITION  
SUBPOENA

12 BRIAN FLYNN, GEORGE and KELLY  
13 BROWN; and MICHAEL KEITH, on behalf  
of themselves and all others similarly situated,

14 Movants,

15 vs.

16 CISCO SYSTEMS, INC.  
17

18 BRIAN FLYNN, GEORGE and KELLY  
19 BROWN; and MICHAEL KEITH

20 Plaintiffs,

21 vs.

22 FCA U.S. LLC f/k/a CHRYSLER GROUP  
23 LLC, Auburn Hills, MI and HARMAN  
INTERNATIONAL INDUSTRIES, INC.,  
24 Stamford, CT

25 Defendants.  
26  
27  
28

Case No. 5:17-mc-80051-SVK

[Pending in the Southern District of Illinois,  
Case No. 3:15-cv-00855 MJR-DGW]

**ORDER DENYING MOVANTS' MOTION  
TO COMPEL NON-PARTY CISCO  
SYSTEMS, INC.'S COMPLIANCE WITH  
SUBPOENA *DUCES TECUM***

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

Before the Court are (1) the Motion to Compel Non-Party Cisco Systems, Inc.’s Compliance With Subpoena *Duces Tecum* (“Motion to Compel”) filed by Movants Brian Flynn, *et al.* (“Flynn”), (2) the Limited Response and Objection to Plaintiffs’ Motion to Compel Directed to Non-Party Cisco Systems, Inc. filed by Defendant FCA U.S. LLC (“FCA,” ” f.k.a. Chrysler), (3) the Opposition to Motion to Compel (“Opposition”) filed by non-party Cisco Systems, Inc. (“Cisco”), and (4) Flynn’s Reply in Further Support of the Motion to Compel. Having considered all papers and evidence offered in support of and in opposition to the motion, and for good cause shown, the Court hereby **DENIES** the Motion to Compel for the reasons set forth below.

1. The Motion to Compel is denied on grounds of relevance as defined in Fed. R. Civ. P. 401. The Court is not persuaded that there is a connection between what Cisco may have thought or discussed —strictly internally, and without sharing with FCA—and what is relevant to the remaining claims in the underlying dispute. Flynn’s briefing as to the issue of relevance is conclusory. The blanket assertion, without more, that the documents sought are relevant because they relate to the same subject matter as the underlying dispute fails to satisfy Flynn’s burden as to relevance, nor does it address proportionality as mandated by Fed. R. Civ. P. 26.

2. The Court is similarly concerned about the breakdown in the meet and confer process. A focused search, and the use of search terms, would have been appropriate here had the documents sought been relevant.

3. The Court declines to reach the issue of costs.

Accordingly, it is hereby ORDERED that Flynn’s Motion to Compel is denied.

Dated: 5 / 23 / 2017

  
\_\_\_\_\_  
Hon. Susan van Keulen  
United States Magistrate Judge